



South Carolina House of Representatives

Legislative Update

Robert W. Harrell, Jr., Speaker of the House

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MAJOR ISSUES FROM THE 2008 LEGISLATIVE SESSION

This document summarizes many of the key issues considered by the General Assembly this year. Please note that some of these issues are addressed in more than one bill. In those instances, we have highlighted bills which have made the most progress towards passage.

This document will be revised and expanded weekly as the status of major bills changes. This report highlights legislative activity through Thursday, May 8, 2008. It is a guide to, not a substitute for, the full text of the legislation summarized. Bill summaries in this document are prepared by staff of the South Carolina House of Representatives and are not the expression of the legislation's sponsor(s) or the House of Representatives. The summaries are strictly for the internal use and benefit of members of the House of Representatives and are not to be construed by a court of law as an expression of legislative intent.

CONTENTS

Appropriations	03
Business/Economic Development.....	03
Consumer Protection and Safety	07
Criminal Justice/Courts	13
Education	18
Elections.....	21
Energy/Conservation.....	23
Family/Health	27
Government	30
Immigration	36
Insurance	43
Military.....	44
Natural Resources	47
Taxation	49
Transportation	51

APPROPRIATIONS

The House of Representatives and the Senate have approved different versions of H.4800, the Fiscal Year 2008-2009 General Appropriations Bill, and H.4801, a joint resolution providing for Capitol Reserve Fund appropriations. Highlights of the proposed state government budget, as approved by the House, include:

- Full funding of the Education Finance Act with \$94.5 million, for a base student cost of \$2,578.
- \$24 million is provided for school buses.
- Full funding of the LIFE, HOPE, and Palmetto Fellows Scholarship programs.
- \$4.5 million for the LightRail broadband, high-speed optical research network at the state's research universities.
- A 1% State employee pay increase is provided with \$19.9 million.
- The Department of Parks, Recreation, and Tourism receives \$10 million for Destination Specific Grants.
- \$1 million is provided to the State Ports Authority for harbor dredging.

STATUS: On May 8, 2008, the House of Representatives returned H.4800 and H.4801 to the Senate with amendments. The Senate did not concur in those amendments.

BUSINESS/ECONOMIC DEVELOPMENT

BROADBAND SERVICE COMMISSION

The House of Representatives and the Senate have approved different versions of H.4735, a joint resolution that creates the South Carolina Educational Broadband Service Commission for the purpose of obtaining and evaluating proposals from commercial entities for the leasing of the excess spectrum capacity licensed to the South Carolina Educational Television Network that will become available following the federally required conversion to digital broadcast. The legislation specifies the public officials responsible for appointing the seven members of the commission all of whom must be from the private sector and have a background of substantial duration and expertise in business. The legislation establishes the competitive process that is to be used by the commission. After evaluation, the commission is to present the proposals and its recommendations to the Joint Bond Review Committee. If the Joint Bond Review Committee determines that a proposal should be approved it is presented to the Budget and Control Board for review and approval. The commission is exempt from the Consolidated Procurement Code. The commission shall terminate six months after all

Legislative Update, May 13, 2008
Major Issues #1

agreements resulting from an approved proposal are finally executed or no later than June 30, 2010. Upon termination of the commission, the Budget and Control Board assumes responsibility for the management and administration of all agreements resulting from an approved proposal.

STATUS: On May 1, 2008, the House of Representatives returned H.4735 to the Senate with amendments.

MOTION PICTURE INCENTIVES

The House of Representatives approved and sent to the Senate H.4815, the "South Carolina Motion Picture Incentive Act of 2008." The legislation revises and updates tax incentives for motion picture productions in this State by adding and modernizing definitions, eliminating the rebate of state and local sales taxes provided under former law, providing for the carry forward of rebate funds to avoid multiple applications, clarifying the wage incentive and resident hiring bonus, increasing the number of days state property may be used without fee from seven to ten days, and providing additional requirements for film credits for this State. The legislation allows for a rebate to a production company a portion of the South Carolina payroll of the employment of persons subject to South Carolina income tax withholdings in connection with production of qualified production activities. The rebate is an amount up to twenty percent of the total aggregate South Carolina payroll. Up to an additional ten percent rebate may be paid for all South Carolina residents who are paid a minimum of eighteen dollars an hour. The total aggregate payroll does not include the portion of the salary of an employee whose salary is greater than one million dollars for each qualified production activity. The legislation provides that an additional one percent of the general fund portion of admissions tax collected by this State for the previous year must be allocated to the South Carolina Film Commission for the development and funding of a trainee wage reimbursement program, apprenticeship programs, and other qualified production activity training programs for South Carolina residents. The legislation transfers the South Carolina Film Commission from the Department of Commerce and establishes it as a separate division of the Department of Parks, Recreation and Tourism.

STATUS: H.4815 passed the House of Representatives on April 25, 2008, and was sent to the Senate where it has been referred to the Finance Committee.

RESEARCH CENTERS OF ECONOMIC EXCELLENCE PROGRAM EXTENSION

The House of Representatives approved and sent to the Senate H.4494, a bill authorizing the continuation of the Research Centers of Economic Excellence program that utilizes South Carolina Education Lottery funds for the creation of endowed professorships at the State's research universities to anchor centers conducting scientific research with business applications. The legislation allows for the continuation of the program by eliminating the \$200,000,000 monetary cap and the 2010 expiration date for funding that are currently imposed upon the Centers of Excellence Matching Endowment. The legislation revises matching fund provisions by replacing requirements for private funds with requirements for nonstate funds, thereby allowing such sources as federal funds to be counted for matching purposes. Matching fund provisions are also revised to allow for the acceptance of cash equivalent and in-kind donations from nonstate sources. The legislation provides that eligible research universities are strongly encouraged to partner with other South Carolina colleges and universities to develop proposals that will enhance the economic competitiveness of our State, and to enhance science and engineering through collaborations in related disciplines. The legislation specifies that endowment appropriations may not be funded until all state-supported scholarships are fully funded. The legislation also revises the reporting requirements for the Research Centers of Excellence Review Board so as to provide that their annual report be issued to the General Assembly as well as to the State Budget and Control Board.

STATUS: H.4494 passed the House of Representatives on February 15, 2008, and was sent to the Senate where it has been referred to the Finance Committee. The House also amended H.4800, the 2008-2009 General Appropriations Bill, to include these provisions and returned that bill to the Senate with amendments on May 8.

RESIDENTIAL IMPROVEMENT DISTRICT ACT

The House amended, approved, and sent to the Senate H.4745, a bill enacting the "South Carolina Residential Improvement District Act", to provide a new option for financing infrastructure and other improvements necessitated by new residential developments. In instances where a new residential development is proposed, the legislation provides a mechanism for local governments to accept a plan from the owners of the tracts of undeveloped land regarding what sorts of infrastructure and other improvements would be required to accommodate the new growth and additional demands of the proposed residential development. When an improvement plan has been adopted, the legislation authorizes the governing body of a county or municipality to create an improvement district and impose upon the landowners in that district an assessment to fund improvements such as roads, sidewalks, parks, recreational facilities, storm water drainage projects, utilities, and school facilities. A county or municipality is authorized to issue revenue bonds against the revenue from the new assessments. The owner/developer of the real property in a residential improvement district must disclose to a prospective purchaser of residential real property in the improvement district that the property will be subject to an assessment under this legislation and the annual amount and duration of the assessments. If a proposed improvement pertains to a school, such as new construction or additions to existing

Legislative Update, May 13, 2008
Major Issues #1

construction, then the improvement must be approved by the local school board prior to the creation of the district.

STATUS: H.4745 passed the House of Representatives on April 10, 2008, and was sent to the Senate where it has been referred to the Judiciary Committee.

RURAL INFRASTRUCTURE ACT

The House of Representatives approved and sent to the Senate H.3666, the "South Carolina Rural Infrastructure Act." The legislation establishes the South Carolina Rural Infrastructure Authority and provides for its governance, powers, and duties. The authority is charged with assisting municipalities, counties, special purpose and public service districts, and public works commissions in constructing and improving rural infrastructure by providing loans and other financial assistance such as grants, credit enhancement, capital or debt reserves for bonds or debt instrument financing, interest rate subsidies, provision of letters of credit and credit instruments, and provision of bond or other debt financing instrument security. For these purposes, the authority administers a newly created South Carolina Rural Infrastructure Fund which is authorized to receive state appropriations, federal funds, contributions, donations, loan repayments, and other available funds.

The authority may provide loans and other financial assistance to an eligible entity to pay for all or part of the eligible cost of a qualified project. Before providing a loan or other financial assistance to a qualified borrower, the authority must obtain the review and approval of the Joint Bond Review Committee. The term of the loan or other financial assistance must not exceed the useful life of the project. The authority may require the eligible entity to enter into a financing agreement in connection with its loan obligation or other financial assistance.

Following the close of each state fiscal year, the authority shall submit an annual report of its activities to the Governor and to the General Assembly. An independent certified public accountant shall perform an audit of the books and accounts of the authority at least once in each state fiscal year.

STATUS: On May 17, 2007, the House of Representatives approved H.3666 and sent the bill to the Senate where it has been referred to the Finance Committee.

CONSUMER PROTECTION/SAFETY

DEFERRED PRESENTMENT TRANSACTIONS

The Senate approved and sent to the House of Representatives **S.398**, a bill imposing new restrictions on those licensed to perform deferred presentment transactions, commonly referred to as payday lending. The legislation allows a customer to pay any outstanding deferred presentment transaction by means of an extended payment plan in substantially equal installments over a period of sixty days at no additional cost. A customer may prepay an extended payment plan in full at any time without penalty.

Under the legislation, a licensee may not enter into a deferred presentment transaction with a person: (1) who has an outstanding deferred presentment transaction with any licensee; (2) who has entered into an extended payment plan agreement which has not been paid in full or terminated; or (3) sooner than the seventh day after the date upon which the person last closed out a deferred presentment transaction with any licensee.

The legislation provides that the total amount advanced by all licensees to any customer for deferred presentment or deposit may not exceed either twenty-five percent of the customer's gross income during the term of the loan or five hundred dollars, whichever is less. A licensee may not advance to a customer an amount for deferred presentment or deposit which causes this limit to be exceeded by that customer.

The legislation requires the Consumer Finance Division of the Board of Financial Institutions to implement a common database with real-time access through an internet connection that deferred presentment providers must consult prior to entering into transactions to ensure that they comply with the legislation's requirements and limitations. The legislation establishes reporting requirements for the information maintained on the central database and provides for an annual report to the General Assembly on loans made in South Carolina.

The legislation provides that a licensee and a customer may not enter into an electronic funds transfer agreement to make automatic debited loan payments for any portion of a deferred presentment agreement.

The legislation also increases licensure fees.

STATUS: S.398 passed the Senate on February 20, 2008, and was sent to the House of Representatives where it has been referred to the Labor, Commerce and Industry Committee.

"FINANCIAL IDENTITY FRAUD AND IDENTITY THEFT PROTECTION ACT"

The General Assembly approved legislation creating the "Consumer Identity Theft Protection Act." Highlights of the legislation include the following.

Consumer Provisions

Legislative Update, May 13, 2008
Major Issues #1

The legislation requires address verification for credit card applications. Additionally, the legislation removes language that required an issuer of a credit card to get parental consent prior to issuing a card to a person under the age of 21.

A consumer may place a freeze on his credit information. A consumer reporting agency cannot charge a fee for invoking a freeze, removing a freeze, temporarily lifting a freeze, or reinstating a freeze. Placing a freeze on a consumer's report does not prevent someone from being able to get information concerning criminal records; fraud prevention or detection; personal loss history; or employment, tenant, or individual background screening.

The legislation changes the definition of "personal identifying information" to make South Carolina's definition the same as the definition used by the majority of other states.

Law Enforcement Provisions

Local law enforcement must report an identity theft, if contacted by a suspected victim.

The State Law Enforcement Division is required to maintain an identity theft database.

Business Provisions

The legislation prohibits a person from posting, printing, transmitting, selling, or exchanging a social security number or a portion that consists of six digits or more unless there is written authorization, there is a legitimate business or government purpose that provides a benefit, or for other specifically permitted reasons.

Businesses are restricted from printing the last five digits of a credit card number or the card expiration date on a receipt.

Businesses and state agencies that own or license computerized personal identifying information are required to disclose a breach of the security system should one be suspected.

A person conducting business in this State may notify consumers of a security breach by email or by telephone if those are the person's primary means of communication.

When a business disposes of a business record that contains personal identifying information, the business shall modify, by shredding, erasing, or other means, the personal identifying information to make it unreadable or undecipherable.

Judicial Remedies

A victim may petition a circuit court for a judicial determination of innocence and an expungement of record.

It is unlawful for a person to obtain another's identity by rummaging through their personal, household, or commercial garbage.

Consumer Reporting Agencies

Legislative Update, May 13, 2008
Major Issues #1

A consumer reporting agency must give notice to each creditor who uses a consumer report if the agency becomes aware that an application to a card issuer to open a new seller or lender credit account bears an address for the consumer that is different from the address in its file of the consumer.

A consumer reporting agency must remove all false information from a credit report, if the agency receives notice from the consumer to do so. If an agency violates this section, it is liable for three times the actual damages or \$5,000, whichever is greater. If the agency negligently violates this section, it is liable for actual damages or \$3,000 for each incident, whichever is greater.

STATUS: The General Assembly approved S.453 (R.202), and the Governor signed the legislation into law on April 2, 2008 (Act No. 190).

FIRE SPRINKLER SYSTEM TAX CREDITS AND INCENTIVES

The House of Representatives approved and sent to the Senate H.4470, a bill establishing tax credits and incentives for fire sprinkler system installation and improvement in commercial and residential structures that complies with the standards of the National Fire Protection Association. This bill provides a state income tax credit for the purchase, installation, or improvement of a fire sprinkler system equal to eighty percent of the costs of purchase, installation, and retrofitting of the system, not to exceed fifty thousand dollars. The legislation exempts fire sprinkler systems from the state sales tax. The legislation revises provisions for the depreciation allowed in the valuation of manufacturing property for purposes of the property tax, so as to allow a twenty percent annual depreciation for the addition or upgrade of a fire sprinkler. This cost may be completely depreciated. The legislation allows an exemption from county property taxes for five years for the first fifty thousand dollars of the cost of adding to and upgrades of fire sprinkler systems. The legislation limits charges imposed by municipal and special service district water systems for separate lines for fire sprinkler systems to actual costs. The State Fire Marshal is assigned additional authority relating to fire sprinkler systems.

STATUS: H.4470 passed the House of Representatives on February 15, 2008, and was sent to the Senate where it has been referred to the Finance Committee.

GROUP CHILDCARE HOMES

The House of Representatives approved S.311 relating to group childcare homes. This legislation requires the owner or operator of a group childcare home and family childcare home in South Carolina who does not carry liability insurance to notify each enrolled child's parent or guardian of that fact no later than January 1, 2009. The owner or operator must obtain signed statements from each enrolled child's parent or guardian, indicating notice was received regarding the lack of liability insurance. The childcare facility must maintain a file of the signed statements for the period of time the child is enrolled. The parent or guardian of any new child enrolled after June 30, 2008, must receive this information and sign a statement at the time of enrollment. If a childcare facility

Legislative Update, May 13, 2008
Major Issues #1

has liability insurance that lapses or is cancelled the owner or operator must notify and obtain signed statements from the parents of the enrolled child.

In addition, an owner operator of a childcare center must notify and obtain signed statements from custodial parents or guardians of each child upon enrollment of the child that the childcare center may provisionally employ a person when an unexpected staff vacancy occurs in order to comply with applicant screening against the Central Registry of Child Abuse and Neglect. A person provisionally employed must be under supervision of a non-provisionally employed person at all times when providing direct care to children. The provisional status must be immediately terminated if the requests for the State Law Enforcement Division fingerprint review, the Federal Bureau of Investigation fingerprint review and the Central Registry check are not submitted within two business days of employment. As a result, the State Law Enforcement Division must complete the Central Registry check within two business days after receipt of the request. If an operator or a childcare violates the requirements, the operator may not employ a person provisionally for the succeeding twelve months.

STATUS: The House of Representatives returned S.311 to the Senate with amendments on May 7, 2008.

MORTGAGE LENDING

The Senate approved and sent to the House of Representatives **S.1090**, the “South Carolina Mortgage Lending Act,” which establishes new regulatory provisions for those who make loans primarily secured by mortgages or deeds of trust on residential real property. The legislation requires licensure for mortgage lenders and their affiliated loan officers. The legislation establishes licensure requirements, including criminal and financial background checks, professional training, and testing. As a condition of license renewal, a licensee must complete at least eight hours of continuing professional education annually for the purpose of enhancing professional competence and responsibility.

Each licensee is required to maintain a mortgage log that, at a minimum, identifies the borrower, including his credit score, the property, the loan terms, the loan officer, the appraiser, the closing agent, the broker, and the lender. This mortgage log data and other required information must be submitted in an annual report to the Department of Consumer Affairs to assist the administrator in identifying possible discriminatory mortgage lending patterns.

New conditions are established for mortgage lenders, limited loan officers and managing principals employed by mortgage lenders. The legislation includes a list of activities specifically prohibited as misleading or fraudulent lending practices. Civil penalties are authorized for certain violations.

The legislation establishes the criminal offense of residential mortgage fraud. The felony offense is punishable by imprisonment for not less than one year nor more than ten years, and/or a fine of not more than five thousand dollars. If a violation involves a pattern of residential mortgage fraud, it is punishable by imprisonment for not less than three years nor more than twenty years, and/or a fine of not more than one hundred thousand dollars.

STATUS: S.1090 passed the Senate on April 29, 2008, and was sent to the House of Representatives where it has been referred to the Labor, Commerce and Industry Committee.

“REDUCED CIGARETTE IGNITION PROPENSITY STANDARDS AND FIREFIGHTER PROTECTION ACT”

The House of Representatives approved and sent to the Senate **H.4900**, the “Reduced Cigarette Ignition Propensity Standards and Firefighter Protection Act”. The legislation provides that, in order to be sold in this State, cigarettes must undergo laboratory testing for ignition propensity, receive certification that they meet this legislation’s fire safety performance standards, and marked to show that they comply with these reduced ignition propensity standards. Manufacturers are required to pay a certification fee for each cigarette brand style to the State Fire Marshal to defray the costs of the legislation’s processing, testing, enforcement, and oversight activities. The fee is initially set at two hundred fifty dollars, but the State Fire Marshal is authorized to adjust the fee annually to ensure that actual costs are defrayed. Manufacturer are required to maintain copies of the reports of tests conducted on cigarettes for a period of three years, and

Legislative Update, May 13, 2008
Major Issues #1

must make copies of these reports available to the State Fire Marshal and the Attorney General upon written request. Civil penalties are established for noncompliant cigarette sales, false certifications, failure to meet reporting requirements, and other violations of the legislation. Cigarettes that have been sold or offered for sale that do not comply with the performance standards are subject to forfeiture and destruction. The Attorney General, the Department of Revenue, the State Fire Marshal, and other law enforcement personnel are provided authority to examine the books, papers, invoices, and other records related to cigarette sales in order to enforce the provisions of the legislation.

STATUS: H.4900 passed the House of Representatives on April 30, 2008, and was sent to the Senate where it has been referred to the Judiciary Committee.

“TELEVISION PROGRAMMING PROTECTION ACT”

The General Assembly approved **S.598**, the “Television Programming Protection Act.” This legislation requires a cable or video service provider that uses digital transmission technology to deliver its programming to block completely all video and audio on any channel that a subscriber has not purchased at no charge to the subscriber. A cable or video service provider that uses analog transmission technology to deliver its programming must notify its subscribers that it will, upon request, carry out such blocking at no charge to the subscriber. Within five days of receiving a subscriber’s request, the analog service provider must block all video and audio on any channel that the subscriber has not purchased. The time frames do not apply if compliance is not possible due to circumstances beyond the service provider’s control. The legislation provides that a cable or video service provider that intends to deliver channels to its subscribers on a promotional basis is required to give its subscribers advanced notice and inform them that, upon request, all video and audio on such channels can be completely blocked. Unless a subscriber makes such a request, a service provider may, on a promotional basis, deliver one or more channels not purchased by a subscriber. The legislation also establishes a protocol for rectifying instances where blocked channels are transmitted due to equipment failure.

STATUS: Having passed the General Assembly, S.598 (R.197) became law without the Governor’s signature on February 28, 2008 (Act No. 182).

UNAUTHORIZED USE OF A BANK NAME

The General Assembly approved and the Governor signed into law **S.964**, legislation prohibiting the unauthorized use of a bank name. The legislation prohibits the use of the name or logo of a bank in any advertisements for financial products or services without the bank’s written consent. A violator is subject to a fine of not less than five hundred dollars and not more than one thousand dollars for each unauthorized use of a name or logo. Under the legislation, a bank may file an action to enjoin the unauthorized use of its name or logo. A court of competent jurisdiction may grant an injunction to restrain the wrongful use and may require the defendants to pay to the bank all profits derived from, and all damages suffered by, reason of the wrongful use of the name or logo, including costs and reasonable attorney’s fees.

STATUS: Having passed the General Assembly, S.964 (R.191) was signed into law by the Governor on February 19, 2008 (Act No. 181).

CRIMINAL JUSTICE/COURTS

CRIMINAL DOMESTIC VIOLENCE CONVICTIONS IN OTHER STATES

As passed by the House of Representatives, this legislation provides that certain criminal domestic violence convictions in other states are to be considered when determining a previous conviction for purposes of enhancing the penalty.

STATUS: The House of Representatives passed H.3058 on April 4, 2008. The bill received a favorable with amendment recommendation from the Senate Judiciary Committee on May 7, 2008. The bill is pending on the Senate calendar.

CRIMINAL DOMESTIC VIOLENCE REVISIONS

As passed by the House of Representatives, this legislation creates the offense of trespass upon the grounds or structure of a domestic violence shelter. Violations are felonies. Upon conviction, a person must be fined not more than \$5,000 dollars or imprisoned for not more than five years, or both. If a court decides to release a person pending his trial, the court shall inform the person in writing if his household member is living in a domestic violence shelter and he trespasses onto the property, then he could be charged and face a felony conviction.

Relating to a warrantless arrest or search when a person is believed to have committed a criminal domestic violence offense, this legislation clarifies that a warrantless arrest or search may be undertaken by law enforcement when there is probable cause to believe a violation has occurred.

STATUS: The House of Representatives passed H.5001 on April 30, 2008. The bill is pending in the Senate Judiciary Committee.

CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE REVISIONS

As passed by the House of Representatives, this legislation provides that criminal sexual conduct in the third degree includes situations where a person affiliated with a public or private secondary school in an official capacity but is not a student enrolled in the public or private secondary school and the victim is a person under the age of 19 who is currently enrolled in a public or private secondary school at which the actor works or has supervisory authority and aggravated force or aggravated coercion was not used to accomplish the sexual battery. An exception is provided for a person affiliated with a public or private secondary school who is lawfully married to the student enrolled in the school at the time of the act. The legislation further provides that a person who commits

Legislative Update, May 13, 2008
Major Issues #1

criminal sexual conduct in the third degree is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years.

STATUS: H.3715 passed the House of Representatives on January 31, 2008. The bill is pending in the Senate Judiciary Committee.

DRIVING UNDER THE INFLUENCE REVISIONS

The General Assembly approved legislation that revises South Carolina's driving under the influence laws.

Penalties

The legislation enhances penalties for the offenses of driving under the influence (DUI) and driving with an unlawful alcohol concentration (DWUAC). Under the legislation, for DUI or DWUAC when a person's blood alcohol concentration is 0.08%-0.09%: a first offense is subject to a fine of \$400 or imprisonment for 48 hours-30 days; a second offense is subject to a fine of \$2,100-\$5,100 dollars and imprisonment for five days-one year; a third offense is subject to a fine of \$3,800-\$6,300 dollars and imprisonment for 60 days-three years; and, a fourth or subsequent offense is subject to imprisonment for 1-5 years. For DWUAC when the blood alcohol concentration is 0.10%-0.15%: a first offense is subject to a fine of \$500 dollars or imprisonment for 72 hours-30 days; a second offense is subject to a fine of \$2,500-\$5,500 dollars and imprisonment for 30 days- two years; a third offense is subject to a fine of \$5,000-\$7,500 dollars and imprisonment for 90 days-four years; and, a fourth or subsequent offense is subject to imprisonment for two-six years. For DWUAC when the blood alcohol concentration is 0.16% or greater: a first offense is subject to a fine of \$1,000 dollars or imprisonment for 30-90 days; a second offense is subject to a fine of \$3,500-\$6,500 dollars and imprisonment for 90 days-three years; a third offense is subject to a fine of \$7,500-\$10,000 dollars and imprisonment for 6 months-five years; and, a fourth or subsequent offense is subject to imprisonment for three-seven years.

The legislation establishes provisions under which individuals convicted of DUI or DWUAC offenses are required to complete successfully a drug and alcohol treatment plan.

If convicted of DUI or DWUAC, an individual must pay \$25 dollars to cover the cost of the blood alcohol concentration (BAC) test.

DWUAC is added to the list of offenses that are not eligible for pre-trial intervention (PTI).

DWUAC is added to the list of offenses eligible for charging a person with child endangerment.

Driver's License Provisions

Under the legislation, the Department of Motor Vehicles (DMV) must suspend the driver's license of a person who is convicted of a felony DUI for the period of

Legislative Update, May 13, 2008
Major Issues #1

incarceration plus three years when great bodily injury occurs and five years when a death occurs.

If a person under the age of 21 refuses to submit to a BAC test, the DMV must suspend the person's license or permit, or deny the issuance of a license or permit for a period of 6 months for a first offense, and one year for any subsequent offense.

If a person under the age of 21 submits to a BAC test and the result indicates a BAC of 0.02% or more, the DMV must suspend the person's license or permit, or deny the issuance of a license or permit to the person for a period of three months for a first offense, and six months for any subsequent offense.

If a person 21 or older refuses to submit to a BAC test, the DMV must suspend the person's license or permit, or deny the issuance of a license or permit to the person for a period of six months for a first offense, nine months for a second offense, 12 months for a third offense, and 15 months for a fourth or subsequent offense.

If a person 21 or older submits to a BAC test and the result indicates a BAC of 0.15% or more, the DMV must suspend the person's license or permit, or deny the issuance of a license or permit to the person for a period of one month for a first offense, two months for a second offense, three months for a third offense, and four months for a fourth or subsequent offense.

Law Enforcement Provisions

The legislation provides that a law enforcement officer is only required to advise a person being investigated for DUI or DWUAC of the person's Miranda rights at the time of arrest.

Under the legislation, the refusal to take a field sobriety test by a person being investigated for DUI or DWUAC does not constitute disobeying a law enforcement command.

The legislation provides that BAC test may not be administered on a person being investigated DUI or DWUAC unless, upon activation of the video recording equipment and prior to the commencement of the testing procedure, the person has been given a written copy and verbally informed of the person's rights regarding the BAC test.

STATUS: The General Assembly approved H.3496 (R.234), and the Governor signed the legislation into law on April 15, 2008 (Act No. 201).

"FINANCIAL IDENTITY FRAUD AND IDENTITY THEFT PROTECTION ACT"

See summary under Consumer Protection/Safety

NEW GANG PREVENTION STUDY COMMITTEE

Legislative Update, May 13, 2008
Major Issues #1

The General Assembly approved a joint resolution to create a new gang prevention study committee to continue the work of the initial Gang Prevention Study Committee to assess and combat the ongoing gang problem by bringing together State agencies to coordinate gang reduction plans and make further recommendations addressing gang-related activity in South Carolina.

STATUS: The General Assembly approved H.4630 (R.201), and the Governor signed the legislation on February 27, 2008.

RESTRICTIONS ON WHERE A SEX OFFENDER MAY RESIDE

As passed by the House of Representatives, this legislation provides that it is unlawful for sex offenders who have been convicted of certain offenses to reside within 1,000 feet of a school, daycare center, children's recreational facility, park, or public playground. If a person is in violation of this provision, a local law enforcement officer must notify the person of his violation and the person must be given 30 days to vacate his residence. If the person fails to vacate his residence within that time period, the legislation includes criminal penalties. There are graduated penalties for subsequent violations. The legislation also provides that local school districts must make certain information available to parents and guardians regarding any sex offenders that reside within 1,000 feet of a school bus stop. The legislation includes grandfather provisions. Local governments may not

Legislative Update, May 13, 2008
Major Issues #1

enact an ordinance that contains penalties that exceed or are less lenient than the penalties contained in this legislation.

STATUS: H.3094 passed the House of Representatives on March 13, 2008. The legislation received a majority favorable with amendment report and minority unfavorable report from the Senate Judiciary Committee on May 7, 2008. The legislation is pending on the Senate calendar.

SOUTH CAROLINA SENTENCING REFORM COMMISSION

As passed by the House of Representatives, this joint resolution creates a twelve-member commission to review, study and recommend legislation for sentencing guidelines, the parole system, and alternative sentencing procedures for non-violent offenders. The commission must make its report and findings no later than June 1, 2009. The joint resolution includes provisions for the appointment of members to the commission.

The Senate's version of the legislation provides for only nine members on the commission, and it does not include three appointees by the Governor.

STATUS: S.144 passed the Senate on February 8, 2007. The House of Representatives amended and returned the legislation to the Senate on March 28, 2008. The Senate amended and returned the legislation back to the House on April 1, 2008. The House non-concurred in the Senate's amendment on April 9, 2008.

"TRAFFIC EDUCATION PROGRAM ACT"

The legislation authorizes each circuit solicitor to establish as part of the Pretrial Intervention Program a traffic education program for persons who commit traffic-related offenses that are punishable only by a fine and loss of four points or less and that have not resulted in death or serious bodily injury to another person. A person may be considered for a traffic education program only if he has no prior traffic-related offenses on his record, and a person may not participate in a traffic education program more than once. The program must include both a community service and an educational component. When a person successfully completes a traffic education program, the governmental agency administering the program shall effect a noncriminal disposition of the traffic-related offense, and there must be no record maintained of the traffic-related offense except by the appropriate traffic education program in order to ensure that a person does not benefit from a traffic education program more than once. If a person violates the conditions of a traffic education program or receives a subsequent traffic violation during the six months following the issuance of the ticket for which he has entered the traffic education program, he must be terminated from the program and the traffic-related offense

Legislative Update, May 13, 2008
Major Issues #1

must be reinstated. The legislation establishes program participation fees and provides for how these fees are to be distributed.

STATUS: The General Assembly approved H.3572 (R.186), and the Governor signed the legislation into law on February 4, 2008 (Act No. 176).

UNLAWFUL PURCHASE OF COPPER

As passed by the House of Representatives, this legislation outlines additional information that purchasers of certain metals are required to keep regarding sellers. An exemption from the provisions is established for the purchase of copper wire, copper pipe, copper bars, copper sheeting, aluminum, a product that is a mixture of aluminum and copper, or stainless steel beer kegs or containers in any amount from a manufacturing, industrial, or other commercial vendor that generates or sells regulated metal property in the ordinary course of its business. The provisions preempt all pertinent local regulations. This legislation also revises certain criminal penalties.

STATUS: H.4930 passed the House of Representatives on April 17, 2008. The bill received a favorable with amendment recommendation from the Senate Judiciary Committee on May 7, 2008. The bill is pending on the Senate calendar.

EDUCATION

EDUCATION ACCOUNTABILITY ACT REVISIONS

The House of Representatives amended, approved, and sent to the Senate a bill that makes revisions to the Education Accountability Act. Highlights of the legislation include the following.

End-of-Year Assessments (grades 3-8)

In lieu of the Palmetto Achievement Challenge Test (PACT), this bill provides for the Elementary and Middle School Assessment Program (EMSAP). To facilitate the reporting of strand level information and the reporting of student scores prior to the beginning of the next school year, the EMSAP multiple choice items must be administered as close to the end of the school year as possible and the writing assessment must be administered earlier in the school year. Reports from the EMSAP include strand information. The EMSAP would be first administered in 2010.

Subjects Tested for Accountability

The subject areas tested for accountability have not changed with this bill. Subjects tested for accountability are English/language arts, mathematics, science and social studies.

Formative Assessments

Under the legislation, the State Board of Education shall create a statewide adoption list of formative assessments for grades one through nine aligned with the state content standards in English/language arts and mathematics that satisfies professional measurement standards in accordance with criteria jointly determined by the Education Oversight Committee and the State Department of Education. The formative assessments must provide diagnostic information in a timely manner to all school districts for each student during the course of the school year. For use beginning with the 2009-2010 school year, with funds appropriated by the General Assembly, local districts must be allocated resources to select and administer formative assessments from the statewide adoption list to use to improve student performance in accordance with district improvement plans.

Assessment Data

Currently, there is no codified deadline for student assessment results to be provided. This bill provides that assessment results on individual students and schools are due by August 1.

Academic Plans

The legislation eliminates provisions for individual student academic plans, parent conferences, and district level reviews for students in grades three through eight lacking the skills to perform at current grade level.

Student Performance Levels

Currently, student performance levels are not codified, but under current practice there are four levels: advanced, proficient, basic, and below basic. This bill provides for three student performance levels: Exemplary (demonstrated exemplary performance in meeting grade level standard), Met (met grade level standard), and Not Met (did not meet grade level standard). For purposes of reporting as required by federal statute, proficiency includes students performing at Met or Exemplary.

School/District Performance Levels

The legislation retains the existing performance levels of excellent, good, average, below average, and unsatisfactory. Under the legislation, graduation rates must be used as an additional accountability measure for high schools and school districts.

State and Federal Level Accountability Reporting Levels

Current practice provides for separate levels for state and federal accountability reporting. This bill provides for the same levels for state and federal accountability reporting.

Annual School and District Report Cards

This bill provides that annual report cards must meet federal report card requirements. This bill further provides that district report cards will include the state's National Assessment of Educational Progress (NAEP) scores as well as scores of the nation. NAEP is the only nationally representative and continuing assessment of what America's students know and can do in various subject areas.

Performance Awards

Currently, there are two performance awards: Palmetto Gold and Palmetto Silver. In addition to these two awards, this bill provides for a closing the achievement gap award for schools making substantial progress in closing the achievement gap between disaggregated groups.

District and School Performance

Currently, district and school performance are referred to as absolute and improvement. Under this bill, district and school performance are referred to as absolute and growth.

Periodic Review of the Accountability System

The Education Oversight Committee, working with the State Board of Education, shall conduct a cyclical review of the accountability system at least every five years and provide the General Assembly with a report of findings and recommendations.

STATUS: The House of Representatives passed H.4662 on February 28, 2008. On April 23, 2008, the bill received a majority favorable with amendment report and a minority unfavorable report from the Senate Committee on Education. The bill is pending on the Senate calendar.

“SOUTH CAROLINA FARM TO SCHOOL PROGRAM ACT”

The House of Representatives approved and sent to the Senate H.4833 the “South Carolina Farm to School Program Act” which creates a program that will foster a direct relationship between South Carolina farms and schools to provide schools with fresh and minimally processed foods for student consumption. This will help children develop healthy eating habits, and to improve South Carolina farmers' incomes and direct access to markets. As a result, the Department of Agriculture shall employ a director to administer and monitor the programs and activities of the program. Some of the duties will include identifying and promoting critical components of individual farm to school programs and advising agencies on needed actions and strategies; seeking grants from private

Legislative Update, May 13, 2008
Major Issues #1

donations and other funding sources; and providing leadership at the state level to encourage school districts to develop and improve school nutrition plans using locally grown farm fresh products. In addition the Department must establish a web site for the program.

STATUS: H.4833 passed the House of Representatives on April 24, 2008. The legislation was introduced in the Senate and referred to the Education Committee on April 24, 2008.

STUDENT TRANSFERS AND ELIGIBILITY TO PARTICIPATE IN INTERSCHOLASTIC ACTIVITIES

The House of Representatives approved legislation which provides that a high school student who is the victim of physical abuse, harassment, or stalking by a classmate during school hours or otherwise resulting in a restraining order being granted against the classmate by a court of competent jurisdiction may transfer with the consent of the student's school district to another high school within or out of the district within 30 school days of the restraining order being violated, without any loss of eligibility to participate in interscholastic activities at the school to which the student transfers.

STATUS: H.4758 passed the House of Representatives on April 30, 2008. The legislation is pending in the Senate Committee on Education.

QUALIFICATIONS FOR ATTENDANCE AT PUBLIC SCHOOLS WHEN CHILD'S PARENT(S) OR LEGAL GUARDIAN(S) IS IN THE MILITARY

See summary under Military

ELECTIONS

BALLOT STANDARDS AND SPECIFICATIONS

As passed by the House of Representatives, this legislation provides that the name of each candidate shall appear no more than once on the ballot. If a candidate has been nominated by multiple parties or petitions, the legislation further provides that the name of each party or petition nominating the candidate must be listed under the candidate's name. The legislation also provides that if a nonpartisan school election is held on the same day as another election, the entity charged by law with conducting the elections shall prepare one ballot for all elections conducted on that day.

STATUS: H.4725 passed the House of Representatives on April 10, 2008. The bill is pending in the Senate Judiciary Committee.

CANDIDATE VOLUNTARY DRUG TESTING PROGRAM

As passed by the Senate, this legislation provides that any candidate for a popularly elected office or an office elected by the General Assembly may obtain a test for illegal drugs and submit the results when the candidate files for the office. For popularly elected offices, the results must be submitted to the authority with which the candidate files and forwarded to the State Elections Commission and published on the commission's website. For offices elected by the General Assembly, the results must be submitted to the committee screening the candidate and published on the General Assembly's website and included in any screening report on the candidate. The results published on the particular entity's website must include the candidate's full name, the office sought, whether or not he tested positive, and any drug for which he tested positive. The legislation outlines requirements that must be met in order for the results to be published; however, the commission or screening committee has the final authority to determine whether a candidate's drug test results meet the requirements for publication.

STATUS: S.1070 passed the Senate on April 16, 2008. The legislation is pending the House Judiciary Committee.

MINOR CHILDREN OF A QUALIFIED ELECTOR MAY ACCOMPANY THE QUALIFIED ELECTOR IN THE VOTING BOOTH

The General Assembly approved legislation that allows minor children of a qualified elector to accompany the qualified elector in the voting booth while he is casting his ballot. The qualified elector shall attest that the persons accompanying him are the minor children of the elector.

STATUS: Having passed the House of Representatives and Senate, S.14 was ratified on May 8, 2008 (R.236).

ENERGY/CONSERVATION

“ENERGY INDEPENDENCE AND SUSTAINABLE HOMES ACT”

The House of Representatives approved and sent to the Senate H.4892, the “Energy Independence and Sustainable Homes Act”. The legislation establishes a one thousand dollar state income tax credit for a residential builder who constructs a high-performance residence in this State that meets the legislation’s green building standards for maximizing energy efficiency and minimizing adverse environmental impact. The Department of Revenue is required to submit an annual report to the General Assembly detailing the number of high-performance residences, the tax credits that have been claimed, and any barriers that hinder the legislation’s promotion of green building standards. The legislation also provides that a local government or homeowners association may not impose a greater requirement on a person wishing to install a solar energy heating or cooling system in a residential home than it otherwise would impose on a person wishing to install another heating, cooling, or similar mechanical system.

STATUS: H.4892 passed the House of Representatives on April 30, 2008, and was sent to the Senate where it has been referred to the Finance Committee.

FLEET MANAGEMENT PROGRAM

This legislation seeks to improve environmental quality in this state by decreasing the discharge of pollutants. In addition the legislation outlines that a preference in purchasing state motor vehicles must be given to hybrid, plug-in hybrid, bio-diesel, hydrogen, fuel cell, or flex-fuel vehicles when the performance, quality and anticipated life-cycle costs are comparable to other available motor vehicles.

STATUS: Having passed the General Assembly, S.368 (R.230) became law without the Governor’s signature (Act No. 203).

IDLING RESTRICTIONS FOR COMMERCIAL DIESEL VEHICLES

The House of Representatives passed legislation that prohibits an operator of a commercial diesel vehicle from allowing a vehicle to idle for more than ten minutes in any 60-minute period. The legislation includes numerous exceptions. The State Transport Police Division of the Department of Public Safety is responsible for enforcing these provisions. Violations are nonmoving traffic offenses punishable by a warning ticket for an offense that occurs between July 1, 2008, to July 1, 2009, or a fine of \$75 dollars for each offense that occurs after July 1, 2009. Fines may be paid directly to the Department of Public Safety, or an individual may request a hearing in magistrates court. Magistrates court has jurisdiction over all contested violations. Failure to pay fines may result in driver’s license suspension. Fifty dollars of each fine must be credited to the Diesel Idling Reduction Fund, and the monies in this fund must be used to cover costs associated with the idling awareness program operated by the Department of Health and Environmental Control. The legislation supercedes and preempts any ordinance

Legislative Update, May 13, 2008
Major Issues #1

enacted by a local political subdivision purporting to regulate idling on commercial diesel vehicles.

STATUS: H.4911 passed the House of Representatives on April 25, 2008. The bill is pending in the Senate Committee on Transportation.

NET METERING REPORT

The General Assembly approved H.3395, a joint resolution providing for a report on net metering programs at the State's electric utilities. Net metering is a means of calculating the energy that is consumed and produced at facilities equipped with renewable energy generators such as solar panels or wind turbines. The legislation provides that the South Carolina Energy Office and the Office of Regulatory Staff, not later than January 1, 2009, shall provide a report to the General Assembly that recommends process and procedures for establishing net metering programs at all distribution electric utilities in South Carolina, including investor-owned electric utilities and the South Carolina Public Service Authority. The report must consider net metering requirements of adjacent states, and make recommendations that facilitate interstate uniformity for utilities that serve both South Carolina and a neighboring state. The report's recommendations must be consistent with requirements of the federal Energy Policy Act. The report must also consider the need to facilitate consistency with Green Power electricity purchase programs operating in South Carolina. In preparing the net metering report, the South Carolina Energy Office and the Office of Regulatory Staff shall consult with all affected electric utilities, the State Consumer Advocate, representatives of environmental interests, and the South Carolina Energy Advisory Committee.

STATUS: Having passed the House of Representatives and the Senate H.3395 was ratified on May 8, 2008 (R.247).

NEW ENERGY CONSERVATION GOALS FOR STATE AGENCIES

The House of Representatives passed, H.4766, legislation, which establishes new energy conservation goals for state agencies. For buildings in use on July 1, 2008, the legislation establishes a goal of reducing energy consumption by at least one percent annually for five consecutive years. The plan also must have a goal of ultimately reducing energy consumption by twenty percent by July 1, 2020, relative to year 2000 levels. An agency shall implement all available cost-effective energy-saving measures to pursue these goals. In determining whether an energy-saving method is cost effective, an agency should primarily consider the measure's cost effectiveness over a five-year period rather than within one fiscal year. The State Energy Office shall provide agency assistance and information needed to help meet these goals. These provisions do not apply to a building designed, constructed or rehabilitated, and maintained in compliance with the Energy Independence and Sustainable Construction Act of 2007. The legislation provides for annual status reports to the State Energy Office and requires an agency that does not attain its required annual reduction goals to include in its report a detailed justification that it implemented all available, cost-effective energy conservation methods. The legislation also requires state agencies to replace

Legislative Update, May 13, 2008
Major Issues #1

incandescent light bulbs with compact fluorescent bulbs when the incandescent bulbs need to be replaced, and if the agency determines use of a compact fluorescent bulb is more cost effective over a five-year period. A state agency may purchase incandescent bulbs if the agency verifies, in writing, that compelling circumstances require their use.

STATUS: The House of Representatives approved H.4766 and sent it to the Senate on April 30, 2008. The Senate introduced and referred the bill to the Committee on Agriculture and Natural Resources on April 30, 2008.

OPERATION EMPOWERED

The Senate approved and sent to the House of Representatives S.1076. This legislation provides for the Public Service Commission Office of Regulatory Staff to create a non-profit corporation named Operation Empowered that can receive tax-deductible contributions in order to provide financial assistance to low-income households to implement energy efficiency and conservation measures. The Office of Regulatory Staff may appoint an advisory committee of persons from electric utilities, electric cooperatives, and other energy related organizations, as well as persons from poverty assistance organizations in order to provide guidance in designing programs to further the goals of the legislation.

STATUS: S.1076 passed the Senate on April 29, 2008, and was sent to the House of Representatives where it has been referred to the Ways and Means Committee.

RECYCLING FACILITY TAX CREDIT

The House of Representatives approved and sent to the Senate H.4927, a bill establishing an income tax credit for the electricity costs of recycling facilities. The legislation allows a refundable income tax credit to a recycling facility equal to the yearly amount expended by the recycling facility for electric service multiplied by one percent in the first year the credit is claimed, two percent in the second year, three percent in the third year, and four percent in the fourth or subsequent year. The recycling facility must maintain or increase the number of employees in South Carolina in order to qualify for the credit. The credit is allowed only when the Board of Economic Advisors forecasts growth in general fund revenues of at least five percent.

STATUS: H.4927 passed the House of Representatives on April 24, 2008, and was sent to the Senate where it has been referred to the Finance Committee.

RENEWABLE ENERGY RESOURCES AND NUCLEAR ENERGY

The House of Representatives approved S.360, relating to Renewable Energy Resources and Nuclear Energy under the "South Carolina Energy Efficiency Act". The legislation defines the "renewable energy resources" that are encouraged under the provisions of the energy efficiency act as solar photovoltaic energy, solar thermal energy, wind power, hydroelectric, geothermal energy, tidal energy,

Legislative Update, May 13, 2008
Major Issues #1

recycling, hydrogen fuel derived from renewable resources, biomass energy, and landfill gas. The legislation also adds provisions to the act to ensure that any future energy strategy that promotes carbon-free, non-greenhouse gas emitting sources includes nuclear energy and renewable energy resources.

The Senate's version of the legislation includes nuclear energy as renewable energy.

STATUS: The House of Representatives returned S.360 to the Senate with amendments on February 7, 2008. Subsequently, the Senate did not concur with the House amendments and a conference committee was appointed to address differences with the Senate on March 6, 2008.

SALES TAX EXEMPTION FOR ENERGY EFFICIENT APPLIANCES

The Senate approved and sent to the House of Representatives S.1143. This bill provides an exemption from the state sales tax for the gross proceeds of sales of noncommercial home or personal use appliances with a sales price of no more than two thousand five hundred dollars that meet standards for energy efficiency. The exemption applies only to sales occurring during October (National 'Energy Efficiency Month') until 2019. The legislation includes provisions for only allowing the exemption during periods when the Board of Economic Advisors is forecasting annual revenue growth of at least five percent.

STATUS: S.1143 passed the Senate on April 29, 2008, and was sent to the House of Representatives where it has been referred to the Ways and Means Committee.

FAMILY/HEALTH

“BEHAVIORAL HEALTH SERVICES ACT OF 2008”

See summary under Government

CRIMINAL RECORDS CHECKS IN THE LICENSURE OF NURSES

The House approved and sent to the Senate H.5012, legislation authorizing criminal records checks in the licensure of nurses. This legislation provides that the State Board of Nursing may require a state and national criminal records check, supported by fingerprints. The South Carolina Law Enforcement Division is authorized to retain fingerprints for certification purposes and for notification of the department regarding criminal charges. The applicant is responsible for the cost of the criminal history background check. In addition, a licensed nurse shall wear a clearly legible identification badge bearing the nurse's official title and first or last name or both.

STATUS: The House of Representatives approved H.5012 and sent it to the Senate on April 17, 2008, where it was referred to the Committee on Medical Affairs. Note: The General Assembly passed similar legislation H.3632 that was vetoed by the Governor on April 2, 2008, and sustained by the House of Representatives on April 10, 2008.

“ELIMINATION OF RACIAL AND ETHNIC DISPARITIES ACT”

The House approved and sent to the Senate H.4648, the “Elimination of Racial and Ethnic Disparities Act”. Subject to funds being appropriated for the program, this legislation directs the South Carolina Department of Health and Environmental Control (DHEC) to establish a grant program to foster coordinated, collaborative, broad-based participation by State and local governments, faith-based organizations, private-sector health care providers, voluntary health care resources, social service providers, and nontraditional partners. DHEC is to develop measurable outcomes to reduce health disparities for a set of specific diseases and conditions. The grant program is meant to supplement existing programs for reducing racial and ethnic health disparities. The legislation also outlines the grant program criteria and guidelines. Grant awards are to be made no later than February 1, 2009 and are to be funded one year and may be renewed.

STATUS: The House of Representatives approved H.4648 and sent it to the Senate on April 10, 2008, where it was referred to Committee on Medical Affairs.

EMERGENCY MEDICAL TECHNICIAN BACKGROUND CHECKS

Legislative Update, May 13, 2008
Major Issues #1

The House approved and sent to the Senate **H.4334** regarding Emergency Medical Technician (EMT) Certification. The legislation requires a person seeking Emergency Medical Technician (EMT) certification or recertification to undergo a state criminal records check and a national criminal records check. The state and national criminal records checks are not required for an EMT employed as of July 1, 2008, until the EMT applies for recertification. A state criminal records check will cost no more than eight dollars and is the responsibility of the EMT or EMS agency.

STATUS: The House of Representatives approved H.4334 and sent it to the Senate on March 5, 2008. The Senate referred it to Committee on Medical Affairs on March 5, 2008.

MULTIPLE SCLEROSIS HEALTHCARE ACCESS STUDY COMMITTEE

This committee is to develop a plan for coordinated service delivery for person with multiple sclerosis. The committee is to be composed of representatives of the Department of Health and Human Services, the two medical schools, SC Hospital Association, SC Medical Association, the National Multiple Sclerosis Society, a MS nurse, and persons living with MS from different geographic regions of the state. The committee shall submit a written report of its findings and recommendations to the General Assembly before January 1, 2009, at which time the committee is abolished.

STATUS: Having passed the General Assembly, S.775 (R.190) became law without the Governor's signature on February 20, 2008.

PRACTICE OF MEDICINE

The House amended, approved, and sent to the Senate **H.3912**, legislation revising provisions of the "Physician Practice Act". The legislation provides that a physician testifying as an expert medical witness under oath in a civil, criminal, or administrative proceeding in this State is deemed to have submitted to the jurisdiction of the Board of Medical Examiners. Upon receipt of an initial complaint, the board is authorized to conduct an investigation and proceed in the same manner as provided in state law for physicians licensed in this State of any physician who offers opinion testimony or evidence in bad faith or without a reasonable basis in fact or otherwise acts unethically in conjunction with testifying as an expert in a deposition or at trial. Requirements are established for service of any notices or correspondence that must be made on the physician expert witness. The legislation provides that if a physician makes a medical error or knows about or witnesses a medical error committed by another physician that results in great bodily injury or death, the physician shall report the medical error to the board, which shall assess what action, if any, must be taken against the physician committing the medical error. The legislation establishes a procedure under which the Director of the Department of Insurance is authorized to file a complaint about a physician to the South Carolina Board of Medical Examiners if a hearing regarding improper claims practices by a health insurer or health maintenance organization results

Legislative Update, May 13, 2008
Major Issues #1

in a determination that a physician performing medical necessity review services for the insurer has willfully and knowingly denied claims with no rational basis. This legislation provides that a physician must be immediately, rather than readily, available when delegating a task to an unlicensed person who works for the physician. The legislation provides that a physician is not prohibited from practicing in actual consultation with a physician licensed in this State concerning an opinion for the South Carolina physician's consideration in managing the care or treatment of a patient in this State. The legislation revises the requirements for an applicant who graduated from medical school outside of the United States, who has met all other criteria and wishes to obtain a license to practice in this State. It requires the applicant to have been actively licensed in another state for the preceding five years and provides that the practice must have been without significant disciplinary action. The legislation also allows a physician who currently is certified by a board-approved national specialty organization that does not require an examination for recertification to become licensed in South Carolina without further examination if the physician has 150 hours of approved continuing medical education in the three years prior to application. Seventy five percent of the hours must be related to the applicant's specialty.

STATUS: The House of Representatives approved H.3912 and sent it to the Senate on March 6, 2008. The Senate referred it to Committee on Medical Affairs on March 12, 2008.

PREREQUISITES FOR THE PERFORMANCE OF AN ABORTION

This legislation revises the prerequisites for the performance of an abortion by providing that, if an ultrasound is performed, an abortion may not be performed sooner than one hour following the completion of the ultrasound. The physician who is to perform the abortion or an allied health professional working in conjunction with the physician must inform the woman before the ultrasound procedure of her right to view the ultrasound image at her request during or after the ultrasound procedure.

STATUS: Having passed the House of Representatives and the Senate, H.3355 was ratified on May 8, 2008 (R.246).

GOVERNMENT

"BEHAVIORAL HEALTH SERVICES ACT OF 2008"

As passed by the House of Representatives, this legislation establishes the Department of Behavioral Health Services comprised of the Division of Alcohol and Other Drug Abuse Services and the Division of Mental Health. Among other things, the department is required to develop a State Plan for Behavioral Health Services which must include the delivery of coordinated, client-centered behavioral health services. The legislation also establishes a Department of Behavioral Health Services Advisory Committee to study the organizational structure of the department to evaluate the effectiveness, efficiency, and accountability of the department and to make recommendations for organizational and service delivery changes. This bill provides for a South Carolina Mental Health Advisory Board as well as a Division of Alcohol and Other Drug Abuse Services Advisory Board.

The House of Representatives also approved and sent to the Senate [H.4899](#), a joint resolution creating a study committee to examine the delivery of behavioral health care services in South Carolina. This legislation is pending in the Senate Committee on Medical Affairs.

STATUS: [H.4737](#) passed the House of Representatives on April 18, 2008. The legislation is pending in the Senate Committee on Medical Affairs.

CIRCUMSTANCES UPON WHICH THE STATE LAW ENFORCEMENT DIVISION MAY RELEASE ITS LIST OF CONCEALABLE WEAPONS PERMIT HOLDERS

This legislation provides that State Law Enforcement Division (SLED) may release the list of concealable weapons permit holders only if the request is made by a law enforcement agency to aid in an official investigation, or if the list is required to be released under a subpoena or court order. Except for when these conditions are met, a person in possession of a list of permit holders obtained from SLED must destroy the list. The legislation also provides that during the first quarter of each calendar year, SLED must publish a report of the following information regarding the previous calendar year: (1) the number of permits; (2) the number of permits that were issued; (3) the number of permit applications that were denied; (4) the number of permits that were renewed; (5) the number of permit renewals that were denied; (6) the number of permits that were suspended or revoked; and (7) the name, address, and county of a person whose permit was revoked, including the reason for the revocation. The report must include a breakdown of such information by county.

STATUS: The General Assembly approved [H.3528](#) (R.235), and the Governor signed the legislation into law on April 16, 2008 (Act No. 202).

DISSOLUTION OF CERTAIN SPECIAL PURPOSE DISTRICTS

Legislative Update, May 13, 2008
Major Issues #1

As passed by the House of Representatives, this legislation allows the governing body of a special purpose district created by act of the General Assembly that provides recreational services and has as its boundary the same as the county in which it is located to voluntarily dissolve itself and transfer its assets and liabilities to a county under certain circumstances.

STATUS: H.4754 passed the House of Representatives on March 7, 2008. The legislation was introduced, read first time, and placed on the Senate calendar without reference on March 11, 2008.

EARMARK PROJECT DISCLOSURE REQUIREMENTS

The House of Representatives approved and sent to the Senate H.4346, a bill establishing disclosure requirements for earmark projects in appropriations bills. This bill provides that every request by a legislator for an earmark project or program included in an appropriations bill must be made in writing utilizing a designated form. The bill establishes new disclosure requirements for information concerning these earmarks including the name of the legislator making the request and a brief explanation the program or project. Under the legislation, an earmark project or program includes an appropriation or proviso for a specific program or project not originating with a written agency budget request or not included in an appropriations bill from the prior fiscal year.

STATUS: H.4346 passed the House of Representatives on May 1, 2008, and was sent to the Senate where it has been referred to the Finance Committee.

HONORING OF VALID OUT-OF-STATE CONCEALABLE WEAPONS PERMITS

As passed by the House of Representatives, H.3212 requires that valid out-of-state permits to carry concealable weapons held by a resident of another state be honored by South Carolina. The legislation eliminates the current provision that South Carolina honors only out-of-state permits issued by a state with which South Carolina has reciprocity.

In order for the permit to be honored by South Carolina under the Senate amendment, the reciprocal state must require the applicant to successfully pass a criminal background check and a course in firearm training and safety. The Senate amendment further provides that a resident of a reciprocal state carrying a

Legislative Update, May 13, 2008
Major Issues #1

concealed weapon in South Carolina is subject to and must abide by the laws of South Carolina regarding concealable weapons.

STATUS: H.3212 passed the House of Representatives on March 2, 2007. The Senate amended and returned the legislation to the House on March 20, 2008. The House non-concurred in the Senate's amendments to the legislation on March 26, 2008.

LEGISLATIVE OVERSIGHT OF EXECUTIVE DEPARTMENTS

In order to determine whether laws and programs addressing subjects within the jurisdiction of a legislative committee are being implemented and carried out in accordance with the intent of the General Assembly and whether they should be continued, curtailed, or eliminated, this legislation provides that each standing committee shall review and study on a continuing basis: (1) the application, administration, execution, and effectiveness of laws and programs addressing subjects within its jurisdiction; (2) the organization and operation of state agencies and entities having responsibilities for the administration and execution of laws and programs addressing subjects within its jurisdiction; and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation addressing subjects within its jurisdiction. The legislation outlines which agencies fall under the jurisdiction of each standing committee.

Each committee must conduct oversight studies and investigations at least once every four years on all agencies within the committee's jurisdiction. Also a standing committee may by majority vote initiate a study or an investigation of an agency within its jurisdiction. An investigating committee may vest its investigative authority in a subcommittee.

The legislation includes provisions detailing how an investigating committee may acquire evidence or information, including requiring an agency to prepare and submit a program evaluation report. The chairman of the investigating committee may direct the Legislative Audit Council to perform a study of the program evaluation report or to perform its own audit of the program or operations being studied or investigated by the investigating committee. All testimony given to the investigating committee must be under oath. All witnesses are entitled to counsel, and a witness shall be given the benefit of any privilege which he may have claimed in court as a party in a civil action.

STATUS: These provisions have been passed in two different bills passed by the House of Representatives.

H.3590 passed the House of Representatives on April 23, 2008. The legislation is pending in the Senate Judiciary Committee.

H.4538 passed the House of Representatives on April 23, 2008. The legislation is pending in the Senate Judiciary Committee.

PROHIBITIONS ON THE REGULATION OF FIREARMS

This legislation provides that counties and municipalities may not enact regulations to prohibit a landowner from discharging a firearm on his property to protect family

Legislative Update, May 13, 2008
Major Issues #1

members, employees, or the general public from animals posing a direct threat or danger on a parcel of land comprised of at least 25 contiguous acres. Any ordinance regulating the discharge of firearms that does not specifically provide for an exclusion pursuant to this item is unenforceable as it pertains to an incident described in this item; otherwise, the ordinance is enforceable.

STATUS: Having passed the House of Representatives and the Senate, S.1039 was ratified on May 8, 2008 (R.239).

PROPOSED CONSTITUTIONAL AMENDMENT PERTAINING TO SPECIAL PURPOSE DISTRICTS

As passed by the House of Representatives, this joint resolution proposing to amend the State Constitution would be submitted to the voters at the next general election. This joint resolution proposes to amend the State Constitution to authorize the General Assembly, by special or local law, to abolish a special or public service district created by the General Assembly and transfer its assets and liabilities to an assuming service provider.

STATUS: H.4578 passed the House of Representatives on April 15, 2008. The bill is pending in the Senate Judiciary Committee.

RESTRICTIONS ON WHERE A SEX OFFENDER MAY RESIDE

See summary under Criminal Justice/Courts

RESTRUCTURING - PROPOSED CONSTITUTIONAL AMENDMENT

The House of Representatives amended, approved and sent to the Senate a [H.4620](#), a joint resolution proposing an amendment to the South Carolina Constitution that would revise the manner in which certain constitutional officers are selected. Under the proposal, the Secretary of State and the Superintendent of Education would no longer be selected by popular election, but would instead be appointed by the Governor with the advice and consent of the General Assembly. The proposed amendment also provides for the joint election of the offices of Governor and Lieutenant Governor, whereby an individual nominated for the office of Governor would select a running mate for the office of Lieutenant Governor to

Legislative Update, May 13, 2008
Major Issues #1

run on the same ticket. If approved, this joint resolution would be submitted to the voters at the next general election.

STATUS: H.4620 passed the House on March 6, 2008. The legislation is pending in the Senate Judiciary Committee.

"SOUTH CAROLINA RESTRUCTURING ACT"

As passed by the House of Representatives, this legislation establishes the Department of Administration under the executive branch of state government. The Department of Administration is headed by a director appointed by the Governor with the advice and consent of the General Assembly.

The following offices, divisions or components of the State Budget and Control Board, Office of Governor, or other agencies are transferred to and incorporated into the Department of Administration:

- Division of General Services including Facilities Management, Business Services together with Fleet Management, and Property Services;
- Office of Human Resources;
- Office of Executive Policy and Programs, except for the State Ombudsman and Children's Services programs which are contained within this office;
- Office of Economic Opportunity;
- Developmental Disabilities Council;
- Continuum of Care;
- Children's Foster Care;
- Veterans Affairs;
- Commission on Women;
- Victims Assistance;
- Small and Minority Business;
- Procurement Services Division of the State Budget and Control Board;
- State Energy Office; and
- Division of State Chief Information Officer of the State Budget and Control Board.

The Budget and Control Board remains responsible for the operations and management of the State House, Blatt Office Building, Gressette Office Building, Supreme Court Building, Calhoun Office Building, and Capitol Complex grounds. Also whenever the Budget and Control Board maintains any responsibility related to a program administered by the Department of Administration, the board is authorized to expend revenues generated by the programs to support the board's responsibilities related to the programs.

The legislation includes a large section for conforming and miscellaneous amendments.

During the year 2015, the Legislative Audit Council shall conduct a performance review of the provisions of this legislation to determine its effectiveness and achievements. The legislation includes a sunset provision.

Legislative Update, May 13, 2008
Major Issues #1

STATUS: H.3590 passed the House of Representatives on April 23, 2008. The legislation is pending in the Senate Judiciary Committee.

STATE APPROPRIATIONS LIMITS

The House of Representatives approved and sent to the Senate **H.3295**, a bill establishing new limits on state appropriations that first apply to appropriations for fiscal year 2008-2009. The bill provides that, in addition to all other applicable constitutional and statutory limitations on general fund appropriations, total general fund appropriations for the fiscal year may not exceed the lesser of: (a) one hundred six percent of the adjusted base-year estimate made by the Board of Economic Advisors; or (b) the adjusted base-year estimate increased by a percentage equal to the state's growth in population and a percentage equal to any increase in the consumer price index. The adjusted base-year estimate is the recurring and nonrecurring general fund estimate made by the Board of Economic Advisors on February 15, 2007 for fiscal year 2007-2008. The Director of the Office of State Budget must certify compliance with these new limitations before the Governor may submit a proposed budget and before the annual general appropriations bill may be given third reading in the House of Representatives and Senate. Under the legislation, the General Assembly is authorized to declare a financial emergency and suspend these limitations on appropriations for any one fiscal year for a specific amount by a special vote (an affirmative recorded roll-call vote in each branch of the General Assembly by two-thirds of the members present and voting but not less than three-fifths of the total membership in each branch).

H.3295 creates the Spending Limit Reserve Fund as a separate and distinct fund in the State Treasury that is to receive all general fund revenues accumulated in a fiscal year in excess of the appropriations limits provided in this legislation. Revenues credited to the Spending Limit Reserve Fund in a fiscal year may be appropriated by the General Assembly in its regular session in the year following the close of the applicable fiscal year. The Spending Limit Reserve Fund must be used to replenish the State's General Reserve Fund should that fund fall below its required minimum balance. Such amounts do not replace or supplant other required replenishments, and, to the extent that concurrent replenishments of the General Reserve Fund exceed the amount necessary for its full funding, the General Reserve Fund is deemed to require an annual minimum balance equal to this increased amount not to exceed a total balance equal to four percent of general fund revenue in the latest completed fiscal year. After this priority is met, revenues that remain in the Spending Limit Reserve Fund may be utilized only for the following purposes: (1) temporary tax reductions; (2) infrastructure improvements including fixed transportation facilities such as highway, rail, water and air, and basic facilities, services, and installations needed for the functioning of government such as water, sewer, and public sector communications; (3) school buildings; (4) school buses; and (5) expenses incurred by the State as a result of natural or other disasters declared by the President of the United States. Funding for a capital project must be appropriated from the fund in one installment and all appropriations must be made by means of a joint resolution originating in the House of Representatives.

STATUS: H.3295 passed the House of Representatives on February 16, 2007, and was sent to the Senate where it has been referred to the Finance Committee. The House also amended H.4800, the 2008-2009 General Appropriations Bill, to include these

appropriations limitations provisions and returned that bill to the Senate with amendments on May 8.

STORM WATER RUNOFF FEES

The House amended, approved, and sent to the Senate **H.4337** relating to storm water runoff fees. The legislation exempts agricultural lands, forest lands and undeveloped lands from any fee imposed by a local governing body for a storm water, sediment or erosion control program.

STATUS: The House of Representatives approved H.4337 and sent it to the Senate on April 30, 2008. The Senate referred it to the Committee on Agriculture and Natural Resources on May 1, 2008.

IMMIGRATION

“SOUTH CAROLINA ILLEGAL IMMIGRATION REFORM ACT”

The House of Representatives returned **H.3032**, a bill establishing comprehensive immigration reform provisions, to the Senate with amendments.

Harboring Illegal Aliens

The legislation provides that it is a felony offense to transport or harbor illegal aliens with specific intent to further that person's illegal entry into the United States or avoiding apprehension or detection of that person's illegal status by authorities. A violation is punishable with a fine of up to five thousand dollars and/or imprisonment for up to five years. Specific exemptions are established for providing health care treatment and for providing shelter that is offered for strictly humanitarian purposes or in compliance with the Violence Against Women Act.

"Sanctuary Cities" Prohibited

Political subdivisions are prohibited from adopting provisions that limit or prohibit the enforcement of State laws pertaining to immigration. Political subdivisions are also prohibited from adopting immigration provisions that are more stringent or otherwise conflict with State laws.

Penalties for Fraudulent Documents

The legislation provides that it is unlawful to display or possess a false, fictitious, fraudulent, or counterfeit green card or other document, such as a driver's license or social security card, for the purpose of offering proof of United States citizenship or classification by the United States as an alien lawfully admitted for temporary or permanent residence under federal immigration law. A first offense is a misdemeanor subject to a fine of no more than one hundred dollars or imprisonment for no more than

Legislative Update, May 13, 2008
Major Issues #1

30 days. A second or subsequent offense is a felony subject to a fine of no more than five hundred dollars or imprisonment for no more than five years.

Public Sector Employment

On or after January 1, 2009, this legislation requires every public employer to register and participate in the federal work authorization program to verify information of all new employees. 'Federal work authorization program' means the E-Verify program or one of the electronic verification of work authorization programs operated by the United States Department of Homeland Security, or an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986, or an electronic verification of work authorization program operated by a private entity and approved by the Attorney General.

A public employer may not enter into a services contract with a contractor for the physical performance of services within this State unless the contractor agrees:

- (1) to register and participate in the federal work authorization program to verify information of all new employees; and require agreement from its subcontractors, and through the subcontractors, the sub-subcontractors, to register and participate in the federal verification of information of all new employees; or
- (2) to employ only workers who:
 - (a) possess a valid South Carolina driver's license or identification card issued by the South Carolina Department of Motor Vehicles;
 - (b) are eligible to obtain a South Carolina driver's license or identification card in that they meet the requirements to obtain the driver's license or identification card; or
 - (c) possess a valid driver's license or identification card from another state where the license requirements are at least as strict as those in South Carolina, as determined by the Attorney General.

A public employer and contractor must not divide work or duties that would otherwise constitute a single service contract into separate contracts for the purpose of avoiding these requirements.

These provisions apply on and after January 1, 2009, with respect to contractors, subcontractors, or sub-subcontractors of 500 or more employees; on and after July 1, 2009, with respect to contractors, subcontractors, or sub-subcontractors of 100-500; and on and after January 1, 2010, with respect to all other contractors, subcontractors or sub-subcontractors.

A public employer complies with these provisions if it obtains a written statement from the contractor certifying that the contractor will comply with the requirements and agrees to provide to the public employer any documentation required to establish either: (a) the applicability of these provisions to the contractor, subcontractor, and sub-subcontractor; or (b) the compliance these provisions by the contractor and any subcontractor or sub-subcontractor. A public employer need not audit or independently verify a contractor's compliance with these provisions.

Legislative Update, May 13, 2008
Major Issues #1

A contractor or public employer who in good faith complies with these requirements may not be sanctioned or subjected to any civil or administrative action for employing an individual not authorized for employment in the United States.

A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony, and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both.

Remedies for violations are those that currently exist in the South Carolina Consolidated Procurement Code.

Private Sector Employment

All private employers must verify new workers by:

- (1) registering and participating in the federal work authorization program to verify information of all new employees; or
- (2) employing only workers who:
 - (a) possess a valid South Carolina driver's license or identification card issued by the South Carolina Department of Motor Vehicles;
 - (b) are eligible to obtain a South Carolina driver's license or identification card in that they meet the requirements to obtain the driver's license or identification card; or
 - (c) possess a valid driver's license or identification card from another state where the license requirements are at least as strict as those in South Carolina, as determined by the Attorney General.

Verification of new workers is a phased in process. For those employers with 100 or more employees, implementation begins on July 1, 2009. For all other employers, implementation begins on July 1, 2010.

Penalties for a violation of verification requirements are enforced through the Department of Revenue (DOR). A first offense is punishable by a fine up to \$100 dollars. A second offense is punishable by a fine up to \$250 dollars. Third and subsequent offenses are punishable by a fine up to \$500 dollars.

This legislation prohibits a private employer from knowingly or intentionally employing an illegal alien. DOR may receive complaints regarding unauthorized employment and verify the status of a person through the federal government. A state county or local official may not make a determination whether an alien is lawfully present in the United States. DOR shall refer the matter to the Attorney General or the local circuit solicitor. Penalties for unlawful employment include the following. For a first offense, three years probation and an order to terminate all unauthorized workers. For a second offense, three years probation, an order to terminate all unauthorized workers and up to a 10-day suspension of any government issued license(s). For third and subsequent offenses, three years probation, an order to terminate all unauthorized workers and suspension of any government issued license(s) for a minimum of 10 days up to a maximum of 30 days. The enforcement body may consider several factors when considering the level of

Legislative Update, May 13, 2008
Major Issues #1

penalty to institute, including: the number of unauthorized aliens employed; prior violations; size of the workforce; and duration of the violation. DOR shall develop a random auditing program to inspect private employers for compliance.

The legislation caps at six hundred dollars the amount that a taxpayer is allowed to claim each year on state income taxes as a deductible business expense for wages paid to an employee unless the employee is authorized to work in the United States under federal law. This does not apply to an individual hired by the taxpayer prior to January 1, 2009. This deductible business expense cap does not apply to the wages of employees whose legal status is verified through possession of valid South Carolina driver's licenses or identification cards, eligibility to receive such identification, or possession of valid driver's licenses or identification from other states that have licensure requirements at least as stringent as South Carolina's.

The legislation's state income tax provisions address not only direct employment situations, but also compensation paid for contract work that is reported on Form 1099. In such situations, state income tax must be withheld at the rate of seven percent of the amount of compensation if the employed individual fails to provide a taxpayer identification number or social security number.

Public Benefits

The legislation requires the validation of citizenship status in order for an individual who is at least 18 years old to be eligible to receive public benefits. Every applicant is required to execute an affidavit verifying the lawfulness of his presence in the country. In the case of an individual claiming legal alien status, the affidavit serves as temporary authorization for receiving benefits while further verification is conducted through the federal Systematic Alien Verification of Entitlement (SAVE) program. An individual who executes a fraudulent affidavit or assists others in making fraudulent claims is guilty of a felony offense and must be imprisoned for up to five years and/or fined at the discretion of the court.

Exceptions are provided to cover such circumstances as receiving disaster relief, benefits for certain emergency medical treatment, public health assistance for immunization, prenatal care, assistance for victims of domestic violence, South Carolina Retirement Systems benefits, and access to certain programs and services for the homeless such as soup kitchens, crisis counseling, and short-term shelters.

Registration of Immigration Assistance Services

The legislation establishes and provides for the enforcement of standards of ethics in the profession of immigration assistance by private individuals who are not licensed attorneys. The legislation limits what immigration assistance a nonlawyer may provide as well as restricts certain activities of these nonlawyers providing immigration assistance for compensation. Exceptions are provided for attorneys and their staff and certain not-for-profit organizations. A person performing immigration assistance services is required to obtain appropriate business licenses. The legislation requires nonattorneys to post signs and give notice in advertisements and communications clearly indicating that they are not attorneys or authorized to give legal advice or accept fees for legal advice. Civil and criminal penalties are provided.

Restitution for Identity Fraud

The legislation provides that an individual found guilty of financial identity fraud or identity fraud involving the falsification of documents that enables an illegal alien to receive public benefits must make restitution to the agency or political subdivision that administered the benefit or entitlement program.

The legislation establishes a civil cause of action for an individual who suffers an ascertainable loss as a result of such identity fraud relating to illegal immigration. A plaintiff is entitled to treble damages.

Higher Education

The legislation provides that illegal aliens are not eligible to attend public institutions of higher learning. Illegal aliens are not eligible to receive public higher education benefit including but not limited to, scholarships, financial aid, grants or resident tuition.

Recording and Reporting Immigration Law Violations

The State Commission for Minority Affairs shall establish and maintain a 24-hour toll free telephone number and electronic website to receive, record, collect, and report allegations of violations of any laws or regulations by any non-United States citizen or immigrant, and allegations of violations of any laws or regulations against any non-United States citizen or immigrant.

The State Commission for Minority Affairs shall establish and maintain a centralized tracking database consisting of all information received through the 24-hour toll free telephone number and electronic website, and report all alleged violations to the appropriate law enforcement or other authority.

Cooperation Between State and Federal Law Enforcement

The legislation directs the chief of the South Carolina Law Enforcement Division to enter into negotiations with federal authorities in order to reach an understanding on: (1) the enforcement of federal immigration laws by State and local law enforcement; (2) the detention of illegal immigrants by State and local law enforcement officials and the costs associated with those detentions; (3) the removal of detained illegal immigrants by federal authorities or the deportation of illegal immigrants by state and local law enforcement officials; (4) relevant training for state and local law enforcement officials; and (5) further communication and cooperation between federal law enforcement and state and local law enforcement officials in the area of immigration enforcement.

Bond Consideration

The legislation allows an accused individual's illegal alien status to be used as a consideration for determining bond.

Detention of Illegal Aliens

The legislation requires law enforcement to make a reasonable attempt to ascertain the immigration status of every person charged with a criminal offense is confined, for any

Legislative Update, May 13, 2008
Major Issues #1

period, in a local, regional, or state jail or other correctional facility. If verification of lawful status cannot be made from documents in the possession of the person and the person is not a United States citizen, verification must be made within 72 hours through a query to the Law Enforcement Support Center of the United States Department of Homeland Security or other designated office or agency. If the prisoner is determined to be an illegal alien, the United States Department of Homeland Security must be notified. An account must be kept of the daily expenses incurred for detaining an illegal aliens and an invoice must be sent to the United States Department of Homeland Security for reimbursement of those costs.

State Grand Jury

The legislation expands the jurisdiction of the State Grand Jury to include matters involving the large-scale production of false documentation for the purposes of illegal immigration or financial identity fraud.

Firearms

The legislation provides that it is unlawful for an illegal alien to possess, purchase, offer to purchase, sell, lease, rent, barter, exchange, or transport into this State a firearm. A violation is a felony offense punishable with a fine of no more than ten thousand dollars or imprisonment for no more than ten years, or both.

The legislation provides that it is unlawful for an individual for a person to knowingly sell, offer to sell, deliver, lease, rent, barter, exchange, or transport for sale into this State a firearm to a person knowing that such person is not lawfully present in the United States. A violation is a misdemeanor offense punishable with a fine of no more than two thousand dollars or imprisonment for no more than three years, or both.

Wrongful Termination

The legislation provides a civil right of action for wrongful termination against an employer who discharges an employee authorized to work in the United States for the purposes of replacing that employee with a person the employer knows or should reasonably know is not lawfully present and authorized to work in the United States. The recovery for an individual who brings a civil suit under this provision is limited to the reinstatement of his former position and lost wages. This cause of action cannot be brought against an employer who submits the necessary identifying information for all employees through the Systematic Alien Verification of Entitlement (SAVE) program, the E-Verify Program or a successor program used for verification of work authorization and operated by the United States Department of Homeland Security. Such a cause of action is equitable in nature and must be brought within one year from the date of the alleged violation.

The Senate amended this bill by striking the House of Representative's language and adding the majority of the original provisions of S.392 providing for immigration reform. A conference committee was appointed for S.392.

The House of Representatives passed H.4400, also providing for comprehensive immigration reform on January 31, 2008. H.4400 was recalled from the Senate Judiciary Committee on May 7, 2008.

Legislative Update, May 13, 2008
Major Issues #1

The House of Representatives passed H.4347, a joint resolution directing the Attorney General to pursue all available remedies and seek reimbursement from the federal government for costs incurred by the State for incarceration and provision of governmental services to illegal immigrants, on January 31, 2008. The legislation is pending in the Senate Judiciary Committee.

The House of Representatives passed H.4451 on April 24, 2008. This bill revises definitions relating to qualifications to receive State aid for education so as to

exclude persons who are not lawfully present in the United States from eligibility to receive State aid. The bill is pending in the Senate Committee on Education.

STATUS: The House of Representatives returned H.3032 to the Senate with amendments on May 7, 2008.

INSURANCE

“HEALTH CARE ACCESSIBILITY FOR YOUNG AMERICANS ACT”

The Senate approved and sent to the House of Representatives **S.1010**, the “Health Care Accessibility for Young Americans Act,” to provide for health insurance coverage under a parent’s policy for an unmarried child under the age of twenty-five years who is primarily dependent for financial support from his parent. This legislation raises the maximum age of a child who is eligible for coverage under a parent’s individual accident and health insurance policies as a dependent by including an unmarried child under the age of twenty-five years who primarily is dependent for financial support from his parent as documented by the parent claiming the child as a dependent on his federal income tax return and who is not eligible for coverage under a group health benefits plan, group health plan, government plan, church plan, or another health benefits plan other than an individual health insurance policy.

The legislation also requires a health insurance policy to provide certain coverage to the child of a policyholder if the child has served at least six months of active duty in the National Guard of this State, the United States armed services, or reserves upon the termination of the child’s active duty status, except where the child’s active duty status terminates due to a dishonorable discharge. This required coverage begins on the date of the child’s honorable discharge from active duty and must extend for no more than six months if the child has served at least six months of active duty, and terminates if the child: (a) marries; (b) receives coverage under another health insurance policy; (c) returns to active duty status; (d) is dishonorably discharged from military service; or (e) attains the age of thirty years.

STATUS: S.1010 passed the Senate on April 29, 2008, and was sent to the House of Representatives where it has been referred to the Labor, Commerce and Industry Committee.

HEALTH CARE FINANCIAL RECOVERY AND PROTECTION ACT

The House of Representatives approved and sent to the Senate **H.3674**, the “South Carolina Health Care Financial Recovery and Protection Act.” The legislation establishes prompt payment provisions requiring insurers to make timely payments to providers of health care services who submit unproblematic claims. The legislation establishes criteria for what is to be considered a clean claim free of any defect, error, or impropriety. The legislation requires payment within forty business days for a clean claim submitted on paper and payment within twenty business days for a clean claim

Legislative Update, May 13, 2008
Major Issues #1

submitted electronically. The legislation requires an insurer to provide an updated fee schedule upon written request by a physician who is a participating provider. Each physician may request from an insurer an updated fee schedule no more than two times annually.

STATUS: H.3674 passed the House of Representatives on February 29, 2008, and was sent to the Senate where it was referred to the Banking and Insurance Committee. On March 12, the committee gave a favorable report on the bill.

SMALL EMPLOYER HEALTH GROUP COOPERATIVE

The General Assembly approved and the Governor signed into law S.588, legislation establishing requirements, powers, duties, and restrictions for a small employer health group cooperative, and enrolled the bill for ratification. The legislation enhances the authority for small employers to form cooperatives for the purpose of providing lower health insurance costs to their employees. The legislation requires the Department of Insurance and Office of Research and Statistics of the Budget and Control Board to submit to the Governor and the General Assembly by January 1, 2010, a report on the effectiveness of the health group cooperative in expanding the availability of health insurance coverage for small employers.

STATUS: Having passed the General Assembly, S.588 (R.189) was signed into law by the Governor on February 19, 2008 (Act No. 180).

MILITARY

HUNTER'S EDUCATION PROGRAM EXEMPTION FOR CERTAIN MILITARY PERSONNEL

The House approved and sent to the Senate H.4390, legislation exempting U.S. Armed Services personnel from the Hunter's Education Program. The legislation provides that the successful completion of the Hunter's Education Program required for receiving a South Carolina Hunting License, does not apply to active or retired United States Armed Services personnel who can demonstrate to the Department of Natural Resources that they received weapons training during their military career.

STATUS: The House of Representatives passed H.4390 and sent it to the Senate on February 1, 2008. It was introduced in the Senate and referred to the Committee on Fish, Game and Forestry on February 5, 2008.

"MILITARY PARENT EQUAL PROTECTION ACT"

As passed by the Senate, this legislation outlines provisions for the modification of a custody or visitation order if one of the parents is in the military service. If a military parent is called to military service, either parent may file a notice of activation of military

Legislative Update, May 13, 2008
Major Issues #1

service and petition to modify a support order. The legislation also includes provisions for the temporary modification of support order. Except for modifying a child support obligation during military service pursuant to these provisions, a military parent's income during military service must not be used to determine the military parent's income or earning capacity. As military necessity may preclude court adjudication before mobilization, the legislation encourages the parties to negotiate mutually agreeable arrangements prior to mobilization. The legislation includes provisions for the award of attorney's fees.

The legislation further provides that a service member who is entitled to a stay in civil proceedings pursuant to the federal Service Members Civil Relief Act may elect to proceed while the service member is reasonably unavailable to appear in the geographical location in which the litigation is pursued and may seek relief and provide evidence through video-conferencing, internet camera, email, or any other reasonable electronic means. Any testimony presented must be made under oath, in a manner viewable by all parties, and in the presence of a court reporter. In matters when a party who is physically present in the State is permitted to use affidavits or seek temporary relief, the service member may submit testimony by affidavit. The court must allow a party to proceed unless an opposing party establishes a compelling reason not to proceed by clear and convincing evidence. The court must allow a party to present evidence pursuant to a method provided by this section unless an opposing party established that the method will cause a substantial injustice, deny effective cross examination, deny the right to confront the witness, or abridge any other constitutional right.

STATUS: S.808 passed the Senate on April 29, 2008. The legislation is pending in the House Judiciary Committee.

MOTORCYCLES OF DISABLED VETERANS EXEMPTED FROM PROPERTY TAX

The House of Representatives approved and sent to the Senate H.3592, a bill exempting motorcycles of disabled veterans from property taxes. This bill exempts from property taxes a motorcycle owned or leased by and licensed and registered in the name of a resident veteran of war who is permanently and totally disabled or who has suffered to loss of a limb as a result of a service-connected injury. This exemption applies to the surviving spouse of a qualified disabled veteran for the lifetime or until the remarriage of the surviving spouse.

STATUS: H.3592 passed the House of Representatives on April 4, 2008, and was sent to the Senate where it has been referred to the Finance Committee.

STATE VETERANS' CEMETERIES

The House amended, approved, and sent to the Senate H.4713 regarding state veterans' cemeteries. The legislation reduces the minimum residency option for honorably discharged veteran and his or her eligible family member for burial in a state veterans' cemetery from 20 years to 5 years. This legislation also clarifies that the veteran's eligible family member may be interred in the veterans' cemetery if he or she predeceases the veteran.

STATUS: The House of Representatives passed H.4713 and sent to the Senate on April 10, 2008. It was introduced in the Senate and referred to the Committee on General.

QUALIFICATIONS FOR ATTENDANCE AT PUBLIC SCHOOLS WHEN CHILD'S PARENT(S) OR LEGAL GUARDIAN(S) IS IN THE MILITARY

As passed by the House of Representatives, this legislation provides that a child may attend the public schools of a school district free of charge if the child resides with an adult resident of that district as a result of the child's parent(s) or legal guardian's military deployment or call to active duty more than 70 miles from their residence for a period greater than 60 days. Also, if the child's parent or legal guardian returns from such military deployment or active duty prior to the end of the school year, the child may finish the school year in the school he attends without charge, even if the child resides in another school district for the remainder of the school year due to his parent or legal guardian returning home.

STATUS: H.4320 passed the House of Representatives on April 3, 2008. The bill is pending in the Senate Committee on Education.

VETERAN LICENSE PLATES

The House of Representatives approved legislation that allows the Department of Motor Vehicles to issue veteran license plates for use on private passenger motor vehicles or motorcycles to those individuals that have been honorably discharged from service. This veteran license plate has the same production requirements as other special plates. There are criminal penalties for providing false information to obtain the plate.

STATUS: H.4157 passed the House of Representatives on April 4, 2008. This legislation is pending in the Senate Committee on Transportation.

NATURAL RESOURCES

ALLIGATOR MANAGEMENT PROGRAM

This legislation requires the Department of Natural Resources to establish an Alligator Management Program that allows for hunting and for selective removal of alligators in order to provide for the sound management of the animals and to ensure the continued viability of the species. The department may establish an alligator hunting season. A person desiring to hunt and take alligators must apply to the department and pay a ten-dollar, nonrefundable application fee. Successful applicants must be randomly selected and must pay a one hundred dollar fee for the permit. The legislation establishes provisions under which a

Legislative Update, May 13, 2008
Major Issues #1

landowner or lessee of property on which alligators occur may apply to the department for a permit to participate in the Private Lands Alligator program. The legislation authorizes the department to designate alligator control agents who demonstrate by training and experience that they possess the skills to remove alligators. The legislation establishes penalties for violating alligator hunting provisions and for the unlawful feeding, enticing, or molesting of alligators. All revenue relating to the legislation, including fines, forfeitures, sales, and fees, must be deposited in the Wildlife Protection Fund and used by the department to support the Alligator Management Program.

STATUS: Having passed the General Assembly, S.452 (R.188) was signed into law by the Governor (Act No. 179).

DEER HUNTING PROVISIONS

The House amended, approved, and sent to the Senate H.4344, legislation revising provisions for hunting and antlered deer. The legislation eliminates a provision authorizing the Department of Natural Resources to establish deer hunting provisions in Game Zones 1 and 2 through regulations. The legislation provides that in Game Zones 1 and 2 it is unlawful to pursue deer with dogs and it is unlawful to bait for deer. The legislation specifies the weapons that may be used during special primitive weapons seasons including bow and arrow, crossbow, certain muzzle-loading shotguns and certain rifles. The legislation revises bag limits on antlered deer so as to provide limits of: (1) Game Zones 1 and 2: not more than five for all seasons combined; (2) Game Zones 3, 4, 5, and 6: no daily or season limit.

STATUS: The House of Representatives passed H.4344 and sent it to the Senate on February 5, 2008. It was introduced in the Senate and referred to the Committee on Fish, Game and Forestry on February 5, 2008.

FERTILITY CONTROL AGENT INTRODUCED INTO WILDLIFE

The House of Representatives approved and sent to the Senate H.4952, legislation that makes it unlawful to introduce a fertility control agent or chemical substance into any wildlife without a permit from the Department of Natural Resources. The department may issue a permit, authorizing the use of a fertility control agent or chemical in wildlife only for bonafide scientific research or management activities. The department is authorized to use fertility control agents or chemical substances on wildlife in order to protect human safety or for management, scientific or educational purposes. However, preference must be given to hunting as the primary method of controlling wildlife before a fertility control agent or chemical substance is utilized. Nothing prohibits the use pesticides for the control of commensal rodents. In addition, violation of the provisions is a misdemeanor and fines of not more than two thousand five hundred dollars or imprisonment not more than two years, or both. Magistrate court is vested with jurisdiction to hear and dispose of these cases. The

**Legislative Update, May 13, 2008
Major Issues #1**

Department of Natural Resources is authorized to promulgate regulations to implement and regulate the provisions of this section.

STATUS: H.4952 received third reading by the Senate and it was returned to the House of Representatives with amendments on May 7, 2008.

**HUNTER'S EDUCATION PROGRAM EXEMPTION FOR
CERTAIN MILITARY PERSONNEL**

See summary under Military

**PROPOSED CONSTITUTIONAL AMENDMENT PERTAINING TO
HUNTING, TRAPPING, AND FISHING.**

As passed by the House of Representatives, this joint resolution proposes to amend the State Constitution so as to provide that hunting, trapping, and fishing and the taking of wild animals, birds, and fish are a valued part of our heritage and shall be forever preserved for the people. Fish and wildlife shall be managed by laws and regulations that provide persons with the continued opportunity to take, by traditional means and methods, species traditionally pursued by hunters, anglers, and trappers. Fish and wildlife management, including taking, shall be consistent with the state's duty to protect this heritage and its duty to conserve wild animals, birds, and fish. Hunting, fishing, or trapping by sportsmen shall always be a preferred and available means of controlling all invasive or overpopulated species. Any person who is licensed to hunt, fish, or trap and who is adversely affected by a failure to comply with this provision shall have a private cause of action to enforce this provision. The right of the people to hunt, fish, trap, and harvest game shall be subject only to such regulations and restrictions as the General Assembly may prescribe by general law. This joint resolution would be submitted to the voters at the next general election.

STATUS: H.3202 passed the House of Representatives on January 31, 2008. The legislation received a favorable with amendment recommendation from the Senate Judiciary Committee, and the bill is pending on the Senate calendar.

STORM WATER RUNOFF FEES

See summary under Government

TAXATION

CIGARETTE TAX INCREASE

Last year the House of Representatives approved and sent to the Senate H.3567, a bill that proposed an additional 1.5-cent surcharge on each cigarette (an additional 30 cents on each pack) with the additional revenue used to reduce the state sales tax collected on groceries. The General Assembly subsequently provided a state sales tax exemption for groceries. This year the Senate returned H.3567 to the House amended to include

Legislative Update, May 13, 2008
Major Issues #1

its own proposed cigarette tax increase. As approved by the Senate, the legislation provides for an additional 2.5-cent surcharge on each cigarette, which amounts to an additional 50 cents collected on each pack of twenty cigarettes. The legislation provides for the revenue received from the additional surcharge as follows:

(1) Each year, five million dollars is credited to a trust fund created under the legislation for the Department of Health and Environmental Control to use in administering a statewide smoking prevention and cessation program.

(2) Of the remaining annual revenue:

(A) One-half is credited to the Medicaid Trust Fund created under the legislation for the Department of Health and Human Services to use to provide Medicaid services to low income families with incomes above fifty percent but no more than one hundred percent of the prevailing federal poverty level. If a balance of funds remains in the Medicaid Trust Fund once the Department of Health and Human Services has offered Medicaid services to these families, then the balance of funds may be used to set the State Children's Health Insurance Program at two hundred fifty percent of the federal poverty level or set the Aged, Blind, and Disabled Program at one hundred thirty-five percent of the federal poverty level.

(B) One-half is credited to trust funds created under the legislation for the Department of Insurance to use in administering new programs for assisting lower income residents in purchasing health insurance.

The legislation also creates the Study Committee on Healthcare Access and Affordability to review and make recommendations regarding the state's overall health status, the price of healthcare, the use of Medicare and Medicaid, the promotion of public and private healthcare partnerships, preventative care, the establishment of a high risk healthcare pool, the necessity of a reinsurance program, how to maximize coverage while controlling costs and providing quality care, and how to improve the state's overall health and healthcare affordability.

STATUS: On May 8, 2008, the Senate returned H.3567 to the House of Representative with amendments.

INCOME TAX RELIEF FOR MARRIED TAXPAYERS

The House of Representatives approved and sent to the Senate H.4550, a bill providing an income tax rate reduction for married taxpayers. This bill establishes a schedule for state income tax rate reductions for married taxpayers who file joint tax returns by annually reducing the current three percent income tax rate over the course of three years so as to ultimately set the rate at two percent.

STATUS: H.4550 passed the House of Representatives on April 9, 2008, and was sent to the Senate where it has been referred to the Finance Committee. The House also amended H.4800, the 2008-2009 General Appropriations Bill, to include these income tax rate reduction provisions and returned that bill to the Senate with amendments on May 8.

REAL PROPERTY VALUATION REFORM ACT REVISIONS

The House of Representatives approved and sent to the Senate **H.4942**, a bill revising the South Carolina Real Property Valuation Reform Act. The legislation revises provisions relating to determining the fair market value of real property at the point of sale for purposes of the South Carolina Real Property Valuation Reform Act. The legislation provides that if a parcel of real property which has had no further improvement since the most recent countywide reassessment program was implemented undergoes an assessable transfer of interest, the implementation of the transfer value is postponed until the property tax year of implementation of the next countywide assessment program. This transfer value is the value to which the limit on increases in fair market value applies. The legislation revises provisions relating to the time an assessable transfer of interest occurs, so as to revise the penalty for failure to provide notice or failure to provide accurate notice to the assessing authority of business entity transfers. The legislation revises provisions relating to the classification and valuation of property for purposes of the property tax, so as to require the deed to property held in trust to recite the name of the beneficiary for the property to qualify as the beneficiary's legal residence and to require Social Security Numbers of applicants for the legal residence assessment ratio. The legislation revises provisions relating to continuing education requirements for assessors.

STATUS: H.4942 passed the House of Representatives on April 24, 2008, and was sent to the Senate where it has been referred to the Finance Committee.

STATE SALES TAX EXEMPTION FOR GROCERIES EXTENDED TO LOCALLY IMPOSED SALES TAXES

The House of Representatives approved and sent to the Senate **H.4355**, a bill allowing the state sales tax exemption for groceries to be extended to locally imposed sales taxes. The legislation authorizes a county governing body by ordinance to exempt unprepared food items eligible for purchase with United States Department of Agriculture food coupons from a locally imposed sales and use tax, including the Local Option Sales Tax, the Capital Project Sales Tax, the Personal Property Tax Exemption Sales Tax, and the Transportation Infrastructure Sales Tax.

STATUS: H.4355 passed the House of Representatives on May 1, 2008, and was sent to the Senate where it has been referred to the Finance Committee.

TRANSPORTATION

BICYCLE TRAFFIC PROVISIONS

As passed by the House of Representatives, the legislation revises a traffic provision intended to facilitate the overtaking of slow-moving vehicles by faster-moving vehicles

Legislative Update, May 13, 2008
Major Issues #1

and establishes a new requirement that an operator of a motor vehicle shall allow a safe operating distance between the motor vehicle and a bicycle when passing and overtaking a bicyclist. The legislation revises requirements relating to bicycle lanes by providing that whenever a bicycle lane has been provided adjacent to a roadway, operators of motor vehicles may not block the bicycle lane to oncoming bicycle traffic and shall yield to a bicyclist in the bicycle lane before entering or crossing the lane. Operators of bicycles are required to ride in the bicycle lane except when necessary to pass another person riding a bicycle or to avoid an obstruction in the bicycle lane. These provisions may not, however, be construed to restrict operators of bicycles from riding on the roadway when there is an adjacent recreational bicycle path available rather than a bicycle lane. The legislation specifies that a bicyclist is not required to ride on the shoulder of the roadway in order to comply with the requirement of riding as close as practicable to the right-hand curb or edge of the roadway. However, a bicyclist is not prohibited from riding on the shoulder of the roadway. Persons riding bicycles upon a roadway are required to ride single file except on paths or parts of roadways set aside for the exclusive use of bicycles or when passing another person riding a bicycle. The legislation specifies the arm motions that a bicyclist is to employ in order to signal a change in direction or speed. The legislation eliminates the current requirement that a bicycle be equipped with a bell or other device capable of producing an audible signal. Definitions for "bicycle" are revised to include devices propelled solely by pedals, operated by one or more persons, and having two or more wheels, except children's tricycles. Under the legislation, an individual who violates a bicycle traffic provision is guilty of a misdemeanor and must be fined or imprisoned in the discretion of the court. If, however, a collision results from a violation, the court shall consider the violation an aggravating circumstance and impose a penalty accordingly. A citation issued to a violator of bicycle traffic provisions who is at least fifteen years old must include the person's driver's license number or State identification card number.

STATUS: H.3006 passed the House of Representatives on January 10, 2008. The bill received a favorable with amendment recommendation from the Senate Transportation Committee on April 24, 2008. The bill is pending on the Senate calendar with Senators Hutto and Fair desiring to be present.

IDLING RESTRICTIONS FOR COMMERCIAL DIESEL VEHICLES

See summary under Energy/Conservation

MOTOR VEHICLE SALES TAX REVENUES DEVOTED TO ROAD CONSTRUCTION AND MAINTENANCE

The House of Representatives approved and sent to the Senate H.4549, a bill providing for motor vehicle sales tax revenues to be devoted to highways, roads, and bridges. This bill provides for a phased-in transfer of motor vehicle sales, use, and casual excise tax revenues to the State Non-Federal Highway Fund to be used exclusively for highway, road, and bridge maintenance and to the State Highway Account of the Transportation Infrastructure Bank. The legislation establishes the timeline for the transfer and provides for how the transferred funds are to be divided between the State Non-Federal Highway Fund and the State Highway Account of the Transportation Infrastructure Bank. The legislation provides for a portion of the funds allocated to the

Legislative Update, May 13, 2008
Major Issues #1

State Non-Federal Aid Highway Fund to be credited and apportioned as 'C' funds that must be expended solely for rural road maintenance and construction. The legislation establishes a "hold harmless" provision for the Education Improvement Act (EIA) Fund under which income tax revenues are, in each fiscal year, transferred from the state's general fund to the Education Improvement Fund in an amount sufficient to offset sales tax revenues that are redirected under this legislation.

STATUS: H.4549 passed the House of Representatives on April 10, 2008, and was sent to the Senate where it has been referred to the Finance Committee. The House also amended H.4800, the 2008-2009 General Appropriations Bill, to include these road funding provisions and returned that bill to the Senate with amendments on May 8.

"THE SOUTH CAROLINA CDL DRUG TESTING ACT"

This legislation requires all medical review officers or breath alcohol technicians hired by or under contract to certain commercial driver employers to report to the employers a verified positive drug test or positive alcohol confirmation test, a refusal to provide a specimen, or the submission of an adulterated, diluted or substituted specimen. Employers must then make report of these items to the Department of Motor Vehicles (DMV) within three business days. Employers must maintain records of these reports for three years, and these records are subject to inspection by the Department of Public Safety. Failure to make required reports is subject to a fine of up to \$500 dollars, which must be credited to the Department of Public Safety's Transport Police Division. This legislation further provides that a person is disqualified from driving a commercial motor vehicle if a report has been received by the DMV that the person has received a verified positive drug test or positive alcohol confirmation test, or refused to take a drug or alcohol test. The disqualification remains in effect until the person undergoes a drug and alcohol assessment by a substance abuse professional and has successfully completed a treatment program. A person who is disqualified more than three times in a five-year period is disqualified for life.

STATUS: Having been approved by the General Assembly, S.880 was ordered enrolled for ratification.

Legislative Update, May 13, 2008
Major Issues #1

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